

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:09CR3092
)	
v.)	
)	
JONAIR TYREECE MOORE,)	ORDER REGARDING OBJECTIONS TO
)	REVISED PRESENTENCE
Defendant.)	INVESTIGATION REPORT
)	

The defendant has filed document 105 titled “Objection to Revised Presentence Investigation Report and Request for Evidentiary Hearing.”

The objections specified are to paragraphs 46 and 53, having to do with possible obstruction of justice; paragraph 52, having to do with use or attempted use of a person less than 18 years of age; paragraph 50, having to do with possession of a firearm in relation to the drug trafficking crime; and paragraph 43 and 49, having to do with quantity of cocaine base and cocaine, in addition to paragraphs 54, 57, and 87 relating to computation.

Because of the objections, an evidentiary hearing will be required and the defendant’s request for evidentiary hearing is granted. The objections and the defendant’s Motion for Downward Departure and Request for Evidentiary Hearing and Oral Argument, document 106, will be granted and the issues resolved at the hearing at the time of the sentencing.

Specifically now, however, I write this order because I cannot be sure exactly what the defendant is requesting by his objections.

With respect to the issue of obstruction of justice the defendant has objected only to paragraphs 46 and 53, but paragraph 41 also asserts Jonair Moore’s taking steps to attempt to prevent Rasdaniel Rollie from testifying.

As to the issue of use or attempted use of a person less than 18 years, the defendant has objected to paragraph 52, but paragraphs 18, 24, 28 and paragraph 41 speak of use of minors to assist him in illegal activity and no objection has been made to those paragraphs.

As to possession of a firearm, the defendant has objected to paragraph 50, but has not

objected to paragraphs 20, 22 and 41 each of which asserts use or possible use of a handgun in relation to a drug crime.

The defendant has objected only to paragraphs 43 and 49, whereas the Presentence Investigation Report asserts facts relating to the quantity of cocaine or crack or both in paragraphs 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, and 41, to which no objection has been made.

The objection to paragraphs 54, 57, and 87 relate only to computations of combined paragraphs. Making objections to them is appropriate, but objecting to them does not bring into issue specific charges made in earlier paragraphs of the Presentence Investigation Report.

Whatever is not objected to is to be treated as facts established. Opposing counsel and I need to know specifically what is being objected to. I assume that the defendant may be considering that the few objections to specific paragraphs carry all other paragraphs dealing with the same subject matter, but that is not appropriate. Accordingly, I shall grant to the defendant additional time to make additional objections he seeks, but it needs to be done reasonably soon, so I shall grant to the defendant until February 26 to make such additional objections as he chooses to make.

IT IS SO ORDERED.

Dated February 19, 2010.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge